

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re: : Case No. 11-60778

Christy L. Lumpkins : Chapter 13

Debtor(s) : Judge Hoffman

DEBTOR'S MOTION TO AVOID
JUDICIAL LIEN IN FAVOR OF OHIO STATE DEPARTMENT OF TAXATION

Now comes the Debtor, by and through counsel, and hereby moves this Court for an Order avoiding the judicial lien of Ohio State Department of Taxation filed against the Debtor's real property located at 1648 Sandhurst Road, Columbus, Ohio 43229 Parcel ID 010-149295. A memorandum in support is attached.

Respectfully submitted,

/s/ W. Mark Jump
W. Mark Jump (0062837)
Katherine B. Brewer (0087822)
2130 Arlington Avenue
Columbus, OH 43221
(614) 481-4480
Attorneys for Debtor

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MEMORANDUM IN SUPPORT

This motion is filed pursuant to 11 U.S.C. Section 522(f) to avoid and cancel a judicial lien held by Ohio State Department of Taxation (hereinafter “Creditor”) on real property located at 1648 Sandhurst Road, Columbus, Ohio 43229 Parcel ID 010-149295 (hereinafter “real property”).

Creditor obtained a judgment against Debtor on April 29, 2006 in the approximate amount of \$1,181.79 and said judgment was certified as a judicial lien on June 6, 2006 in the Franklin County Common Pleas Court Case Number 06 JG 020389 (see attached Exhibit “A”).

The Debtor’s real property is valued at \$127,200.00 as of November 2, 2011 (see attached Exhibit “B”). The real property is encumbered by a valid first mortgage with a principal balance of \$184,521.78 as of the date of filing bankruptcy on October 25, 2011 in favor of LNV Corporation (see attached Exhibits “C” and “D”).

11 U.S.C. §522(f)(1) states in part “the debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent such lien impairs an exemption to which the debtor would have been entitled under subsection (b) of this section, if such lien is --- (A) a judicial lien,...).

The Creditor's lien is a judicial lien obtained from a judgment on a personal guaranty. The real property is used as Debtor's residence and it is titled in Debtor's name (see attached Exhibit "E"). Pursuant to O.R.C. 2329.66(A)(1), Debtor is entitled to and claimed an exemption in the real property in the amount of \$21,625.00. The Creditor's lien impairs this exemption to the full extent.

WHEREFORE, Debtor prays for an Order against Creditor, Ohio State Department of Taxation for the cancellation and avoidance of the judicial lien filed in Franklin County Common Pleas Court Case Number 06 JG 020389 on the real property located at 1648 Sandhurst Road, Columbus, Ohio 43229 Parcel ID 010-149295, in any amount and for such additional or alternative relief as may be just and proper.

Respectfully submitted,

/s/ W. Mark Jump
W. Mark Jump (0062837)
Katherine B. Brewer (0087822)
2130 Arlington Avenue
Columbus, OH43221
(614) 481-4480
Attorneys for Debtor

NOTICE OF MOTION

W. Mark Jump, on behalf of Debtor, has filed papers with the court to obtain avoidance of a Judicial Lien.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the motion, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the motion**, you just file with the court a response explaining your position by mailing your response by regular U.S. Mail to Clerk of Courts, US Bankruptcy Court Southern District of Ohio, 170 North High Street, Columbus, Ohio 43215 OR your attorney must file a response using the court's ECF System.

The court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the courts ECF System or by 2) regular U.S. Mail to W. Mark Jump, 2130 Arlington Avenue, Columbus, Ohio 43221. and to all other parties listed on the Certificate of Service included with this motion.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief without further hearing or notice.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Debtor's Motion to Avoid Judicial Lien in Favor of Ohio State Department of Taxation was served upon the parties listed below this 21st day of May, 2012, electronically or by regular U.S. mail, postage pre-paid.

SERVED ELECTRONICALLY:

Office of the United States Trustee

Jeffrey P. Norman, Chapter 13 Standing Trustee

SERVED VIA REGULAR U.S. MAIL:

Ohio State Department of Taxation
150 E. Gay Street
21st Floor
Columbus, OH 43215
Creditor

Ohio State Department of Taxation
c/o James M. Petro
Roetzel & Andress, LPA
National City Plaza
155 E. Broad Street
12th Floor
Columbus, OH 43215
Creditor's Attorney

Ohio State Department of Taxation
c/o Northwest Registered Agent Service, Inc.
Agent #1817431
Cleveland, OH 44113
Creditor's Registered Agent

/s/ W. Mark Jump
W. Mark Jump (0062837)